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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,349	06/09/2000	Thomas Boucino	9040.7	2701

20792 7590 09/06/2002

MYERS BIGEL SIBLEY & SAJOVEC  
PO BOX 37428  
RALEIGH, NC 27627

EXAMINER
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NGUYEN, CHAU N

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 09/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)
	09/591,349	BOUCINO, THOMAS
	Examiner Chau N Nguyen	Art Unit 2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 5-29 and 40-42 is/are pending in the application.
- 4a) Of the above claim(s) 14,15,18-24,27-29 and 42 is/are withdrawn from consideration.
- 5) Claim(s) 5-8 is/are allowed.
- 6) Claim(s) 9-13,16,17,25,26,40 and 41 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Withdrawal of Allowability of Claims***

After reconsidering the 1.131 Declaration filed on March, 1<sup>st</sup> 2002 to establish a date behind the Gareis reference, it is found that the showing of facts in the Declaration are limited to the wall portions increasing in thickness over only a portion thereof from the center portion to the cable jacket. Exhibit "A" only shows a die which extrudes a spacing separator that has radially-extending portions that taper from thin to thick. There are no other facts and/or evidence submitted in the Declaration to cover the claimed subject matter recited in claims 9-13, 16, 17, 25, 26, 40 and 41, and Gareis qualifies as a 102(e) reference. Therefore, the indicated allowability of claims 9, 13, 25 and 40 is withdrawn in view of the new rejection follow.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 9, 10, 13, 16, 17, 25, 26, 40 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Gareis (6,297,454).

Gareis discloses a communications cable comprising a cable jacket (43), a spacer (20) extending within the cable jacket, the spacer having a longitudinally extending center portion and plurality of longitudinally extending wall portions radiating from the center portion, the longitudinally extending wall portions decreasing in thickness over only a portion thereof from the center portion to the cable jacket, the spacer and the cable jacket defining a plurality of compartments within the cable jacket, and a twisted pair of insulated conductors disposed in one of the plurality of compartments (re claim 9). Gareis also discloses a plurality of twisted pairs of insulated conductors being disposed in respective ones of the plurality of compartments (re claim 10), the wall portions having a first radial

section that increases in thickness with distance from the center portion and a second radial section that decreases in thickness with distance from the center portion (re claim 13), the first and second radial sections being configured such that the wall portions have a convex shaped cross-section, wherein the convex shaped cross-section is arcuate (re claims 16, 17, 40 and 41), the wall portions including a first section having a first thickness, a second section having a second thickness, and a third section having a third thickness, wherein the third section is located between the first and second sections (re claim 25), the first, second and third thicknesses being different from one another (re claim 26).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gareis in view of Boucino et al.

Gareis discloses the invention as claimed except for the compartments having a helical configuration, the twisted pairs extending helically about the

longitudinal axis of the cable (claim 12), and each of the twisted pairs having a different lay length (claim 11).

Boucino et al. discloses a communications cable comprising a spacer having compartments with a helical configuration. It would have been obvious to one skilled in the art to modify the compartments of Gareis to have a helical configuration to hold the twisted pairs together as taught by Boucino et al. (col. 4, lines 15-18).

Boucino et al. discloses a communications cable comprising a plurality of twisted pairs, each having a different lay length. It would have been obvious to one skilled in the art to provide each twisted pair of Gareis et al. with a unique lay length which is different from one another to improve the cross-talk among the pairs as taught by Boucino et al.

***Allowable Subject Matter***

5. Claim 5-8 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: claims 5-8 are allowed in view of the rule 1.131 Declaration filed on March 1, 2002.

***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 308-0693. The examiner can normally be reached on Mon-Fri.

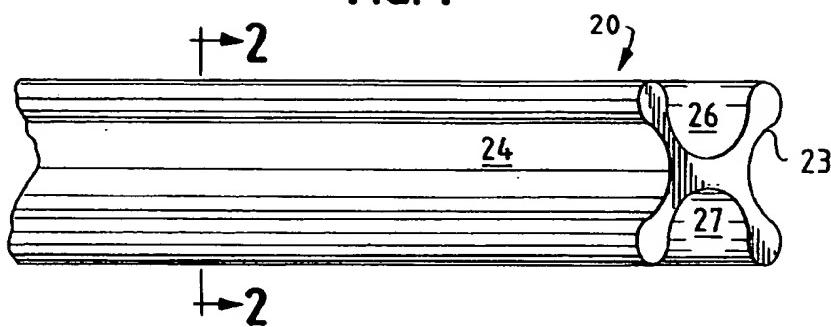
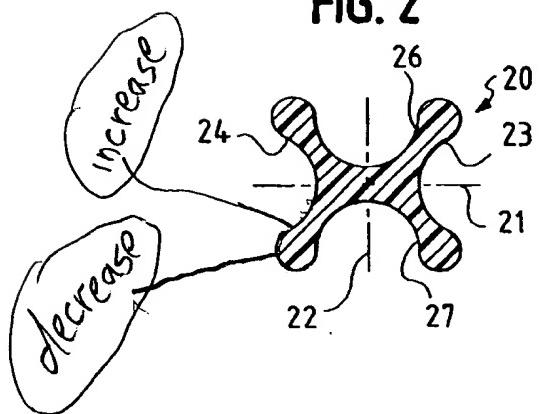
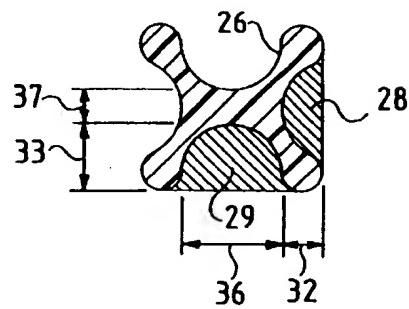
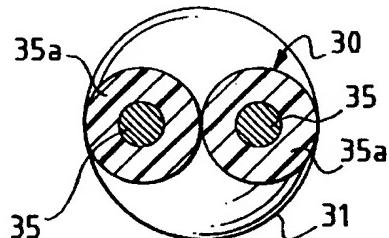
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308 3682. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308 3431 for regular communications and (703) 305 1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Chau N Nguyen  
Primary Examiner  
Art Unit 2831

CN  
August 13, 2002

*Dean A. Reichard 8/15/02*  
DEAN A. REICHARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

**FIG. 1****FIG. 2****FIG. 3****FIG. 4****FIG. 5**